

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JORGE PALACIOS,

Plaintiff,

v.

W. VAUGHN, *et al.*,

Defendants.

Case No. 2:25-cv-0114-JDP (P)

ORDER

Plaintiff, a state inmate proceeding pro se, brings this § 1983 action against defendants W. Vaughn, Deepthi Sursupui, and E. Pedersen, alleging that they violated his constitutional rights by not transferring him to a prison with better medical facilities. ECF No. 15. Plaintiff fails to state a cognizable § 1983 claim. Plaintiff may, if he chooses, file an amended complaint that addresses the deficiencies noted herein. I will grant his most recent application to proceed *in forma pauperis*, ECF No. 18, and deny his previous application, ECF No. 16, as moot.

**Screening and Pleading Requirements**

A federal court must screen the complaint of any claimant seeking permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon

1 which relief may be granted, or seeks monetary relief from a defendant who is immune from such  
2 relief. *Id.*

3 A complaint must contain a short and plain statement that plaintiff is entitled to relief,  
4 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its  
5 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not  
6 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.  
7 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere  
8 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not  
9 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,  
10 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that  
11 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264  
12 n.2 (9th Cir. 2006) (en banc) (citations omitted).

13 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404  
14 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it  
15 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which  
16 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).  
17 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements  
18 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,  
19 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

## 20 Analysis

21 Plaintiff alleges that he has serious medical conditions, that his current institution, Mule  
22 Creek Prison (“MCSP”), does not have satisfactory medical care facilities, and that he is likely to  
23 be infected by another inmate due to the lack of cleanliness at MCSP. ECF No. 15 at 3-4.  
24 Plaintiff seeks to be transferred to California Men’s Colony-East. *Id.*

25 Plaintiff’s allegations fail to state a cognizable § 1983 claim. It is well-established that  
26 prisoners have no constitutional right to incarceration in any particular institution. *See Olim v.*  
27 *Wakinekona*, 461 U.S. 238, 244-48 (1983); *Meachum v. Fano*, 427 U.S. 215, 224 (1976); *Rizzo v.*  
28 *Dawson*, 778 F.2d 527, 530 (9th Cir. 1985). Prison officials have broad authority to transfer

1 prisoners from one facility to another. *See Olim*, 461 U.S. at, 245-46; *Meachum*, 427 U.S. at 225;  
2 *see also Williams v. Wood*, 223 F. App'x 670, 671 (9th Cir. 2007) (finding that state prison  
3 officials were not liable to a prisoner-plaintiff under § 1983 for failing to transfer him to a special  
4 housing unit in a medical facility).

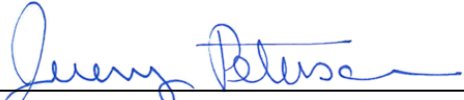
5 Accordingly, plaintiff's complaint is dismissed for failure to state a claim. Out of an  
6 abundance of caution and considering plaintiff's pro se status, I will allow plaintiff another  
7 opportunity to amend his complaint before recommending that this action be dismissed. If  
8 plaintiff decides to file an amended complaint, the amended complaint will supersede the current  
9 one. *See Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means  
10 that the amended complaint will need to be complete on its face without reference to the prior  
11 pleading. *See E.D. Cal. Local Rule 220*. Once an amended complaint is filed, the current one no  
12 longer serves any function. Therefore, in an amended complaint, as in the original, plaintiff will  
13 need to assert each claim and allege each defendant's involvement in sufficient detail. The  
14 amended complaint should be titled "First Amended Complaint" and refer to the appropriate case  
15 number. If plaintiff does not file an amended complaint, I will recommend that this action be  
16 dismissed.

17 Accordingly, it is hereby ORDERED that:

- 18 1. Plaintiff's request for leave to proceed *in forma pauperis*, ECF No. 18, is GRANTED  
19 and his prior application, ECF No. 16, is DENIED as moot.
  - 20 2. Plaintiff's complaint, ECF No. 15, is DISMISSED with leave to amend.
  - 21 3. Within thirty days from service of this order, plaintiff shall file either (1) an amended  
22 complaint or (2) notice of voluntary dismissal of this action without prejudice.
  - 23 4. Failure to timely file either an amended complaint or notice of voluntary dismissal may  
24 result in the imposition of sanctions, including a recommendation that this action be dismissed  
25 with prejudice pursuant to Federal Rule of Civil Procedure 41(b).
  - 26 5. The Clerk of Court shall send plaintiff a complaint form with this order.
- 27  
28

1  
2 IT IS SO ORDERED.

3  
4 Dated: May 16, 2025

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE